

Request for Confidential Treatment

Cellco Partnership (with its related entities, “Verizon”) respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Federal Communications Commission’s (“Commission’s” or “FCC’s”) rules,¹ the Commission withhold from public inspection and afford confidential treatment to the information included between [BEGIN CONFIDENTIAL INFORMATION] and [END CONFIDENTIAL INFORMATION] in the descriptive narrative of this application.

These submitted materials (Confidential Materials) contain information that is sensitive from a commercial, competitive, and financial perspective. Verizon would not reveal this information to the public, to its competitors, or to other third parties in the normal course of business.

Section 552(b)(4) of the Freedom of Information Act (“FOIA Exemption 4”) permits an agency to withhold from public disclosure any information that qualifies as “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”² Section 0.457(d)(2) of the Commission’s Rules allows persons to file a request for nondisclosure when submitting materials that they wish withheld from public inspection.³ In addition, because this is a voluntary submission, if the Commission denies this request for confidential treatment, Verizon requests for its Confidential material to be returned.

Statements Addressing FCC Rules and Regulations Section 0.459(b)

(1) Identification of the specific information for which confidential treatment is sought:

Verizon is requesting confidential treatment for the information included between [BEGIN CONFIDENTIAL INFORMATION] and [END CONFIDENTIAL INFORMATION] in the descriptive narrative of this application (Confidential Materials).

(2) Description of the Circumstances Giving Rise to the Submission:

Verizon seeks confidential treatment of the attached Confidential Materials, as the Confidential Materials will reveal the existence and nature of a confidential, competitively sensitive technology trial.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

The information described above is protected from disclosure because the Confidential Materials contain proprietary information concerning a Verizon technology trial that could be detrimental to Verizon if they were made public. This information constitutes highly sensitive commercial information “which would customarily be guarded from

¹ 47 C.F.R. §§ 0.457, 0.459

² 5 U.S.C. § 552(b)(4).

³ 47 C.F.R. § 0.457(d)(2)

competitors.” 47 C.F.R. § 0.457. The Commission has recognized that, for purposes of Exemption 4, “records are ‘commercial’ as long as the submitter has a commercial interest in them.”⁴ In this regard, the Confidential Material describing Verizon’s application constitutes sensitive commercial information, with significant commercial value, which may be withheld under FOIA Exemption 4 and the Commission’s rules.

(4) *Explanation of the degree to which the information concerns a service that is subject to competition:*

Verizon’s submission contains proprietary information about a Verizon technology trial that, if publicly disclosed, could put Verizon at a competitive disadvantage in the highly competitive wireless industry.

(5) *Explanation of how disclosure of the information could result in substantial competitive harm:*

Providing competitors or the public with the information contained in Verizon’s submission for this STA would expose commercially sensitive information to a highly competitive sector of the technology industry. The D.C. Circuit has found parties do not have to “show actual competitive harm” to justify confidential treatment.⁵ Rather, “[a]ctual competition and the likelihood of substantial competitive injury” is sufficient to bring commercial information within the realm of confidentiality.”⁶ Given the competitive nature of the wireless industry and the sensitive nature of its trial, confidential treatment is appropriate to preserve against substantial competitive harm.

(6) *Identification of any measures taken by the submitting party to prevent unauthorized disclosure:*

Verizon has not publicly disclosed the contents of the Confidential Material, and during the normal course of business, treats the information as confidential. All work is being done under non-disclosure agreements by all the parties involved.

(7) *Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:*

⁴ Robert J. Butler, Memorandum Opinion and Order, 6 FCC Red 5414 ¶ 12 (1991) (citing Pub. Citizen Health Research Group v. F.D.A., 704 F.2d 1280, 1290 (D.C. Cir. 1983); Am. Airlines v. Nat’l Mediation Bd., 588 F.2d 863, 868 (2d Cir. 1978)).

⁵ Pub. Citizen Health Research Grp., 704 F.2d at 1291 (quoting Gulf & Western Indus. v. U.S., 615 F.2d 527, 530 (D.C. Cir. 1979)).

⁶ Id.

Verizon has not made the information contained in the Confidential Material publicly available.

- (8) *Justification of the period during which the submitting party asserts that material should not be available for public disclosure:*

Given the highly proprietary and non-public nature of the information in the Confidential Material, Verizon requests that confidential treatment apply indefinitely, since it is not possible to determine at this time any specific date by which the information could be disclosed without risk of harm.

- (9) *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:*

The Confidential Material subject to this request also would qualify for Exemption 4 of the Freedom of Information Act. Exemption 4 protects information that is (i) commercial or financial; (ii) obtained by a person outside of the government; and (iii) privileged or confidential.⁷

If a request for disclosure is made or this request for confidentiality is dismissed, please provide Verizon with sufficient notice prior to disclosure or dismissal so that it may pursue remedies to preserve confidentiality.

⁷ 5 U.S.C. § 552(b)(4).